The opinion in support of the decision being entered today was <u>not</u> written for publication and is <u>not</u> binding precedent of the Board.
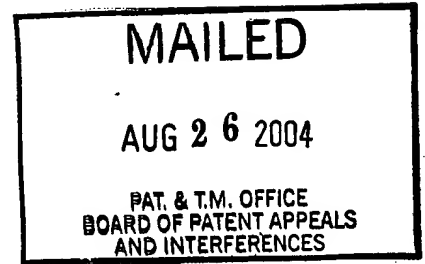
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY P O'HAGAN

Appeal No. 2003-2018
Application No. 09/057,261

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PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES
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ON BRIEF

Before THOMAS, FLEMING, and BARRY, *Administrative Patent Judges*.

FLEMING, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1, 2, 4, 5, 8-18, 20 and 22, all the claims pending in the instant application. Claims 3, 6, 7, 19 and 21 have been canceled.

Invention

The invention relates to a speech recognition system. See page 1 of Appellant's specification. Many conventional speech decoding systems utilize a phonetic encoder to convert the digital signals representing the utterance into a sequence of phoneme codes. Each phoneme is the smallest unit of speech that

can be used to distinguish one sound from another. The sequence
of phoneme codes is decoded into a literal string of words using
a phonetic dictionary and a syntax file. See page 1 of
Appellant's specification. These conventional systems are not
suitable for use in communication systems using mobile
communication units. See page 3 of Appellant's specification.
Appellant's speech recognition system performs speech decoding at
the mobile terminal as compared to a host computer. Appellant's
system utilizes a mobile terminal employing virtual Graphical
User Interface (GUI) pages to facilitate user interface.
Associated with each GUI file is a Hypertext Markup Language
(HTML) file, dictionary file which includes corresponding speech
recognition identifying data (e.g., phoneme files) and a syntax
file. The dictionary files and syntax files are limited in scope
to provide for identification of commands associated primarily
only with the particular GUI file. This greatly reduces the
memory requirements because the dictionary file(s) and syntax
file(s) are limited to words associated with the limited commands
and data which the user of the mobile terminal could validly
input in connection with a particular GUI file. See page 4 of
Appellant's specification.

Independent claim 1 present in the application is

representative of Appellant's claimed invention and is reproduced

as follows:

1. A speech recognition system, comprising:

    a host computer, the host computer operative to communicate
at least one graphical user interface (GUI) display file to a
mobile terminal, the GUI display file having attached thereto at
least one of a dictionary file having phonemes and syntax file
having allowable patterns of words to facilitate speech
recognition, wherein the at least one of a dictionary file and
syntax file are content specific to the GUI display file;

    the mobile terminal including a microphone for receiving
speech input; and

    wherein the mobile terminal employs the at least one of a
dictionary file and syntax file to facilitate speech recognition
in connection with the at least one GUI display file.

Reference

The reference relied on by the Examiner is as follows:

Barclay et al. (Barclay)   5,960,399   Sep. 28, 1999
                                                     (filed Dec. 24, 1997)

Rejections at Issue

Claims 1, 2, 4, 5, 8-18, 20 and 22 stand rejected under

35 U.S.C. § 103 as being unpatentable over Barclay.

Throughout our opinion, we will make reference to the

briefs[1] and the answer for the respective details thereof.

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[1] Appellant filed an appeal brief on December 17, 2002.
                                                     (continued...)

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of Appellant and Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1, 2, 4, 5, 8-18, 20 and 22 under 35 U.S.C. § 103.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 14687, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants.

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[1](...continued)
Appellant filed a reply brief on May 15, 2003. The Examiner mailed out an Office communication on June 13, 2003 stating that the reply has been entered into the record.

Oetiker, 977 F.2d at 1445, 24 USPQ2d at 1444. *See also Piasecki*,

745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and

consideration of all the pertinent evidence and arguments. "In

reviewing the [E]xaminer's decision on appeal, the Board must

necessarily weigh all of the evidence and argument." *In re*

Oetiker, 977 F.2d at 1445, 24 USPQ2d at 1444. "[T]he Board must

not only assure that the requisite findings are made, based on

evidence of record, but must also explain the reasoning by which

the findings are deemed to support the agency's conclusion." *In*

re Lee, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir.

2002). With these principles in mind, we commence review of the

pertinent evidence and arguments of Appellant and Examiner.

Appellant argues that Barclay fails to teach or suggest

communicating a dictionary file having phonemes and a syntax file

having an allowable pattern of words from a host computer to a

mobile device, as required by Appellant's independent claims 1,

12, 18, 20 and 22. See pages 3-5 of Appellant's brief and reply

brief.

The Examiner agrees that Barclay does not teach a host

computer operative to communicating at least one graphical user

interface (GUI) display file to a mobile terminal, the GUI

display file having attached thereto at least one of a dictionary

file having phonemes and syntax file having allowable patterns of

words to facilitate speech recognition, wherein the at least one

of the dictionary files or syntax files are content specific to

the GUI display file as recited in Appellant's claims. However,

the Examiner points out that Barclay teaches in column 3, lines

16-17, that it is known to download grammar files to a mobile

unit. The Examiner argues that one of ordinary skill in the art

reading Barclay would recognize that the Appellant's invention

would be considered prior art having limited vocabularies and

grammars which are downloaded, based on specific Web page topics.

See pages 3-4 of the Examiner's answer.

When determining obviousness, "[t]he factual inquiry whether

to combine references must be thorough and searching." *In re*

Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002),

citing McGinley v. Franklin Sports, Inc., 262 F.3d 1339, 1351-52,

60 USPQ2d 1001, 1008 (Fed. Cir. 2001). "It must be based on

objective evidence of record." *Id.* "Board conclusory statements

regarding the teaching of multiple references, standing alone,

are not 'evidence.'" *In re Dembiczak*, 175 F.3d 994, 999,

50 USPQ2d 1614, 1617. "Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact." *Dembiczak*, 175 F.3d at 999, 50 USPQ2d at 1617, *citing McElmurry v. Arkansas Power & Light Co.*, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

The Federal Circuit reviews the Board's ultimate conclusion of obviousness without deference, and the Board's underlying factual determinations for substantial evidence. *In re Huston*, 308 F.3d 1267, 1276, 64 USPQ2d 1801, 1806 (Fed. Cir. 2002) *citing In re Gartside*, 203 F.3d 1305, 1316, 53 USPQ2d 1769, 1776 (Fed. Cir. 2000). "The Board's findings must extend to all material facts and must be documented on the record, lest the 'haze of so-called expertise' acquire insulation from accountability." *In re Lee*, 277 F.3d 1338, 1345, 61 USPQ2d 1430, 1435 (Fed. Cir. 2002).

Upon our review of Barclay, we fail to find any suggestion or teaching of having a host computer operative to communicate at least one graphical user interface (GUI) display file to a mobile terminal, the GUI display file having attached thereto at least one of a dictionary file having phonemes and syntax file having allowable patterns of words to facilitate speech recognition, wherein the at least one of a dictionary file and syntax file are

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content specific to the GUI display file. We agree that Barclay teaches in column 3, lines 9-23, that prior art systems have downloaded grammar from a Web page. However, Barclay teaches in column 3, lines 7-8, that speech recognizer software is not to be downloaded. Thus, we find nothing in the Barclay teachings that suggests communicating phonemes from a host computer to a mobile terminal. In addition, we find that Barclay discusses the problem with downloading vocabulary and grammar associated system at runtime due to the large file sizes. Therefore, we fail to find anything within these teachings that would have suggested to one skilled in the art to modify the Barclay system so as to communicate a graphical user interface (GUI) display file to a mobile terminal, the GUI display file having attached thereto at least one of a dictionary file having phonemes and syntax file having allowable patterns of words to facilitate speech recognition as recited in Appellant's claims.

In view of the foregoing, we have not sustained the

Examiner's rejection of claims 1, 2, 4, 5, 8-18, 20 and 22 under

35 U.S.C. § 103.

REVERSED

JAMES D. THOMAS
Administrative Patent Judge   )
)
)
)
)
MICHAEL R. FLEMING   )   BOARD OF PATENT
Administrative Patent Judge   )   APPEALS
)   AND
)   INTERFERENCES
)
)
LANCE LEONARD BARRY   )
Administrative Patent Judge   )

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